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EXAMINER	
HENRY, RODNEY M	

ART UNIT	PAPER NUMBER
3622	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/800,883	JENSEN ET AL.	
	Examiner	Art Unit	
	RODNEY HENRY	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 April 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-67* is/are pending in the application.

4a) Of the above claim(s) *21 and 44* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20, 22-43, 45-67* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

The following is a non-final office action on the merits. The Examiner acknowledges communication from the Applicant dated 4/20/2010 in which independent claims 1, and 31 were amended. Therefore, claims 1-20, 22-43, and 45-67, are currently pending and have been considered below.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-4, 6, 8-14, 17-20, 25, 29-41, 43, 45, 47, 48, 53, 55-62, 65, and 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geiger et al. (US 2001/0028301), in view of Crystal et al. (US 2001/0028301), and further in view of Forr et al. (US 20050200476).

As per Claim 1:

Geiger et al. discloses a method for monitoring exposure to a product of a participant in market research, comprising:

providing a portable monitor comprising a wireless receiver to a respective participant selected from a plurality of participants in the market research study;

detecting product data in the portable monitor, the product data being contained in a product signal received in the wireless receiver from a predetermined signal

transmitter proximal to a respective product, the product data representing the respective product, the product signal having a signal strength selected so that the product data is detectable by the portable monitor only when in a predetermined proximity to the predetermined signal transmitter (see paragraph [0054]).

Geiger et al. does not explicitly disclose the portable monitor being adapted to be carried on the person of a participant; storing first time data on a predetermined time base in association with the product data representing timing of proximity to the product; and storing the product data in the portable monitor.

However, Crystal et al. discloses the portable monitor being adapted to be carried on the person of a participant (see paragraph [0015] via media monitor carried on an audience member).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the portable monitor being adapted to be carried on the person of a participant to the system of Geiger et al.. One would have been motivated to do this in order to ensure consumer data capture can be tracked to specific participants, based on their physical mobility.

Forr et al. further discloses storing first time data on a predetermined time base in association with the product data representing timing of proximity to the product; and storing the product data in the portable monitor (see paragraph [0020] via location signal when in vicinity and clock for producing time data, and [0038] via consumer interest in product).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add storing first time data on a predetermined time base in association with the product data representing timing of proximity to the product; and storing the product data in the portable monitor to the system of Geiger et al.. One would have been motivated to do this in order to ensure time stamp, and customer interest data is captured for analysis of customer behavior and buying patterns.

As per Claim 2:

Geiger et al. discloses detecting commercial establishment data in a commercial establishment signal transmitted wirelessly within a commercial establishment in which the product is located, the commercial establishment data representing the commercial establishment (see paragraph [0048]).

As per Claim 3:

Geiger et al. discloses wirelessly receiving the commercial establishment signal (see paragraph [0048]).

As per Claim 4:

Geiger et al. does not explicitly disclose receiving the commercial establishment signal as an acoustic signal.

However, Crystal et al. discloses receiving the commercial establishment signal as an acoustic signal (see paragraph [0048]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add receiving the commercial establishment signal

as an acoustic signal to the system of Geiger et al.. One would have been motivated to do this in order to use cost effective sound wave technology.

As per Claim 6:

Geiger et al. does not explicitly disclose receiving the product signal as an acoustic signal.

However, Crystal et al. discloses receiving the product signal as an acoustic signal (see paragraph [0048]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add receiving the product signal as an acoustic signal to the system of Geiger et al.. One would have been motivated to do this in order to use cost effective sound wave technology.

As per Claim 8:

Geiger et al. discloses receiving the commercial establishment signal as an RF signal (see paragraph [0048]).

As per Claim 9:

Geiger et al. discloses receiving the product signal as an RF signal (see paragraph [0048]).

As per Claim 10:

Geiger et al. discloses receiving both the product signal and the commercial establishment signal in the wireless receiver (see paragraph [0048]).

As per Claim 11:

Geiger et al. discloses receiving the commercial establishment signal as a light signal (see paragraph [0052]).

As per Claim 12:

Geiger et al. discloses receiving the commercial establishment signal as an infrared signal (see paragraph [0008]).

As per Claim 13:

Geiger et al. discloses receiving the commercial establishment signal as a visible light signal (see paragraph [0052]).

As per Claim 14:

Geiger et al. discloses receiving the product signal as a light signal (see paragraphs [0048, 0058]).

As per Claim 17:

Geiger et al. discloses receiving the product signal as an RF signal (see paragraph [0048]).

As per Claim 18:

Geiger et al. discloses receiving the product signal as a light signal (see paragraphs [0048, 0058]).

As per Claim 19:

Geiger et al. discloses receiving the product signal as an infrared signal (see paragraph [0008]).

As per Claim 20:

Geiger et al. discloses receiving the product signal as a visible light signal (see paragraph [0008]).

As per Claim 25:

Geiger et al. does not explicitly disclose gathering outdoor advertising data in the portable monitor representing exposure of the respective participant to outdoor advertising and storing the outdoor advertising data in association with second time data on the predetermined time base representing timing of exposure to the outdoor advertising.

However, Crystal et al. discloses gathering outdoor advertising data in the portable monitor representing exposure of the respective participant to outdoor advertising and storing the outdoor advertising data in association with second time data on the predetermined time base representing timing of exposure to the outdoor advertising (see paragraph [0035]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add gathering outdoor advertising data in the portable monitor representing exposure of the respective participant to outdoor advertising and storing the outdoor advertising data in association with second time data on the predetermined time base representing timing of exposure to the outdoor advertising to the system of Geiger et al.. One would have been motivated to do this in order to gather customer response to outdoor data such as billboards.

As per Claim 29:

Geiger et al. discloses a sensitivity of the wireless receiver is selected so that the portable monitor is capable of detecting the product data in the product signal only when the wireless receiver is in the predetermined proximity to the predetermined signal transmitter (see paragraph [0048]).

As per Claim 30:

Geiger et al. discloses the sensitivity of the wireless receiver is selected so that the portable monitor is capable of detecting the product data in the product signal only when the wireless receiver is located within a predetermined exposure area in which the respective participant is able to perceive the product (see paragraph [0048]).

As per Claim 31:

Geiger et al. discloses a device for monitoring exposure to products by participants in market research, comprising: the portable monitor comprising a wireless receiver operative to receive a product signal from a predetermined signal transmitter proximal to a respective product, the product signal containing product data representing the respective product (see paragraph [0054]).

Geiger et al. does not explicitly disclose the portable monitor being adapted to be carried on the person of a participant; the wireless receiver having a sensitivity selected so that the portable monitor is capable of detecting the product data in the product signal only when in a predetermined proximity to the predetermined signal transmitter; and a data storage coupled with the wireless receiver to receive and store the product data.

However, Crystal et al. discloses the portable monitor being adapted to be carried on the person of a participant (see paragraph [0015] via media monitor carried on an audience member).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the portable monitor being adapted to be carried on the person of a participant to the system of Geiger et al.. One would have been motivated to do this in order to ensure consumer data capture can be tracked to specific participants, based on their physical mobility.

Forr et al. further discloses the wireless receiver having a sensitivity selected so that the portable monitor is capable of detecting the product data in the product signal only when in a predetermined proximity to the predetermined signal transmitter; a data storage coupled with the wireless receiver to receive and store the product data and a clock operative to produce first time data on a predetermined time base and coupled with the data storage to supply the time data thereto, the data storage being operative to store the first time data in association with the product data representing a timing of proximity to the respective product (see paragraph [0020] via location signal when in vicinity and clock for producing time data, and [0038] via consumer interest in product).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the wireless receiver having a sensitivity selected so that the portable monitor is capable of detecting the product data in the product signal only when in a predetermined proximity to the predetermined signal transmitter; a data storage coupled with the wireless receiver to receive and store the

product data and a clock operative to produce first time data on a predetermined time base and coupled with the data storage to supply the time data thereto, the data storage being operative to store the first time data in association with the product data representing a timing of proximity to the respective product to the system of Geiger et al.. One would have been motivated to do this in order to ensure time stamp, and customer interest data is captured for analysis of customer behavior and buying patterns.

As per Claim 32:

Geiger et al. discloses comprising a further wireless receiver operative to detect commercial establishment data in a commercial establishment signal transmitted wirelessly within a commercial establishment in which the product is located, the commercial establishment data representing the commercial establishment (see paragraph [0048]).

As per Claim 33:

Geiger et al. discloses the data storage is coupled with the further wireless receiver to receive and store the commercial establishment data (see paragraph [0047]).

As per Claim 34:

Geiger et al. discloses the wireless receiver is operative to detect commercial establishment data in a commercial establishment signal transmitted wirelessly within a commercial establishment in which the product is located, the commercial establishment data representing the commercial establishment (see paragraph [0048]).

As per Claim 35:

Geiger et al. discloses the data storage is operative to receive and store the commercial establishment data (see paragraph [0047]).

As per Claim 36:

Geiger et al. discloses the wireless receiver comprises an RF receiver (see paragraph [0048]).

As per Claim 37:

Geiger et al. discloses a processor coupled with the RF receiver to receive the product data therefrom and operative to store the product data in the data storage (see paragraph [0048]).

As per Claim 38:

Geiger et al. does not explicitly disclose the wireless receiver comprises an acoustic transducer operative to produce a transduced product signal from an acoustic product signal.

However, Crystal et al. discloses the wireless receiver comprises an acoustic transducer operative to produce a transduced product signal from an acoustic product signal (see paragraph [0015]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the wireless receiver comprises an acoustic transducer operative to produce a transduced product signal from an acoustic product signal to the system of Geiger et al.. One would have been motivated to do this in order to use cost effective sound wave technology.

As per Claim 39:

Geiger et al. does not explicitly disclose a processor coupled with the acoustic transducer to receive the transduced product signal and operative to detect the product data therein.

However, Crystal et al. discloses a processor coupled with the acoustic transducer to receive the transduced product signal and operative to detect the product data therein (see paragraph [0021]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add a processor coupled with the acoustic transducer to receive the transduced product signal and operative to detect the product data therein to the system of Geiger et al.. One would have been motivated to do this in order to use cost effective sound wave technology.

As per Claim 40:

Geiger et al. discloses the wireless receiver comprises a light sensor operative to produce a transduced product signal from a product signal in the form of light energy (see paragraph [0048]).

As per Claim 41:

Geiger et al. discloses a processor coupled with the light sensor to receive the transduced product signal and operative to detect the product data therein (see paragraph [0048]).

As per Claim 43:

Geiger et al. does not explicitly disclose an outdoor advertising exposure monitoring device operative to gather outdoor advertising data in the portable monitor representing exposure of the respective participant to outdoor advertising, the outdoor advertising exposure monitoring device being coupled with the data storage to supply the outdoor advertising data thereto, the data storage being operative to store the outdoor advertising data.

However, Crystal et al. discloses an outdoor advertising exposure monitoring device operative to gather outdoor advertising data in the portable monitor representing exposure of the respective participant to outdoor advertising, the outdoor advertising exposure monitoring device being coupled with the data storage to supply the outdoor advertising data thereto, the data storage being operative to store the outdoor advertising data (see paragraph [0035]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add an outdoor advertising exposure monitoring device operative to gather outdoor advertising data in the portable monitor representing exposure of the respective participant to outdoor advertising, the outdoor advertising exposure monitoring device being coupled with the data storage to supply the outdoor advertising data thereto, the data storage being operative to store the outdoor advertising data to the system of Geiger et al.. One would have been motivated to do this in order to gather customer response to outdoor data such as billboards.

As per Claim 45:

Geiger et al. discloses a media data exposure monitoring device operative to gather media data exposure data in the portable monitor representing exposure of the respective participant to media data, the media data exposure monitoring device being coupled with the data storage to supply the media data exposure data thereto, the data storage being operative to store the media data exposure data in association with second time data on the predetermined time base received from the clock and representing a timing of exposure to the media data (see paragraphs [0047, 0053]).

As per Claim 47:

Geiger et al. discloses the sensitivity of the wireless receiver is selected so that the portable monitor is capable of detecting the product data in the product signal only when the wireless receiver is located within a predetermined exposure area in which the respective participant is able to perceive the product (see paragraphs [0048]).

As per Claim 48:

Geiger et al. discloses a method for monitoring exposure to a predetermined product of a participant in market research, comprising: storing product location data representing a location of a predetermined product; monitoring a location of a participant in market research by means of a portable monitor carried on the person of the participant; storing participant location data representing a plurality of locations of the participant monitored by means of the portable monitor; and processing the participant location data and the product location data to produce product proximity data

indicating exposure of the participant to the predetermined product (see paragraphs [0054]).

As per Claim 53:

Geiger et al. does not explicitly disclose gathering outdoor advertising data in the portable monitor representing exposure of the participant to outdoor advertising and storing the outdoor advertising data in association with second time data on the predetermined time base representing timing of exposure to the outdoor advertising.

However, Crystal et al. discloses gathering outdoor advertising data in the portable monitor representing exposure of the participant to outdoor advertising and storing the outdoor advertising data in association with second time data on the predetermined time base representing timing of exposure to the outdoor advertising (see paragraph [0035]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add gathering outdoor advertising data in the portable monitor representing exposure of the participant to outdoor advertising and storing the outdoor advertising data in association with second time data on the predetermined time base representing timing of exposure to the outdoor advertising to the system of Geiger et al.. One would have been motivated to do this in order to gather customer response to outdoor data such as billboards.

As per Claim 55:

Geiger et al. does not explicitly disclose gathering data in the portable monitor representing exposure of the participant to outdoor advertising.

However, Crystal et al. discloses gathering data in the portable monitor representing exposure of the participant to outdoor advertising (see paragraph [0035]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add gathering data in the portable monitor representing exposure of the participant to outdoor advertising to the system of Geiger et al.. One would have been motivated to do this in order to gather customer response to outdoor data such as billboards.

As per Claim 56:

Geiger et al. discloses processing the participant location data and product location data comprises comparing the participant location data with the product location data to produce the product proximity data (see paragraphs [0054]).

As per Claim 57:

Geiger et al. discloses processing the participant location data and the product location data comprises producing the product proximity data to represent a presence of the participant within a predetermined exposure area in which the participant is able to perceive the product (see paragraphs [0054]).

As per Claim 58:

Geiger et al. discloses determining a presence of the participant in a commercial establishment in which the predetermined product is offered for sale (see paragraphs [0054]).

As per Claim 59:

Geiger et al. discloses a system for monitoring exposure of a participant in market research to a predetermined product, comprising: a database storing product location data representing a location of a predetermined product; a portable monitor adapted to be carried on the person of a participant in market research and comprising a position monitor operative to produce participant location data representing a location of the participant and a data storage coupled with the position monitor to receive the participant location data and operative to store the participant location data; and a processor coupled with the portable monitor to receive the participant location data therefrom and operative to access the product location data from the database; the processor serving to process the participant location data and the product location data produce product proximity data indicating exposure of the participant to the predetermined product (see paragraphs [0054]).

As per Claim 60:

Geiger et al. discloses the processor is operative to compare the participant location data with the product location data to produce the product proximity data (see paragraphs [0054]).

As per Claim 61:

Geiger et al. discloses the processor is operative to produce the product proximity data to represent a presence of the participant within a predetermined exposure area in which the participant is able to perceive the product (see paragraphs [0054]).

As per Claim 62:

Geiger et al. discloses the processor is coupled with the portable monitor through a communications network (see paragraphs [0048]).

As per Claim 65:

Geiger et al. discloses the data storage is coupled with the media data monitor to receive the media data exposure data and is operative to store the media data exposure data in association with second time data on the predetermined time base representing time of exposure to the media data (see paragraphs [0047, 0053]).

As per Claim 67:

Geiger et al. does not explicitly disclose the data storage is coupled with the outdoor advertising exposure monitor to receive the outdoor advertising data and is operative to store the outdoor advertising data in association with second time data on the predetermined time base representing time of exposure to the outdoor advertising.

However, Crystal et al. discloses the data storage is coupled with the outdoor advertising exposure monitor to receive the outdoor advertising data and is operative to store the outdoor advertising data in association with second time data on the predetermined time base representing time of exposure to the outdoor advertising (see paragraph [0035]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the data storage is coupled with the outdoor advertising exposure monitor to receive the outdoor advertising data and is operative to store the outdoor advertising data in association with second time data on the

predetermined time base representing time of exposure to the outdoor advertising to the system of Geiger et al.. One would have been motivated to do this in order to gather customer response to outdoor data such as billboards.

3. Claims 5, 7, 15, 16, 28, 42, 49, and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geiger et al. (US 2001/0028301), in view of Crystal et al. (US 2001/0028301), in view of Forr et al. (US 20050200476), and further in view of Schuster et al. (US 2004/0027271).

As per Claim 5:

Geiger et al. does not explicitly disclose detecting data in the received commercial establishment signal in the form of an ancillary code inaudibly encoded in an audio signal.

However, Schuster et al. discloses detecting data in the received commercial establishment signal in the form of an ancillary code inaudibly encoded in an audio signal (see paragraph [0007]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add detecting data in the received commercial establishment signal in the form of an ancillary code inaudibly encoded in an audio signal to the system of Geiger et al.. One would have been motivated to do this in order to use cost effective sound wave technology.

As per Claim 7:

Geiger et al. does not explicitly disclose detecting data both in the product signal and in the commercial establishment signal in the portable monitor as ancillary codes inaudibly encoded in respective audio signals.

However, Schuster et al. discloses detecting data both in the product signal and in the commercial establishment signal in the portable monitor as ancillary codes inaudibly encoded in respective audio signals (see paragraph [0007]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add detecting data both in the product signal and in the commercial establishment signal in the portable monitor as ancillary codes inaudibly encoded in respective audio signals to the system of Geiger et al.. One would have been motivated to do this in order to use cost effective sound wave technology.

As per Claim 15:

Geiger et al. does not explicitly disclose receiving the product signal as an acoustic signal.

However, Schuster et al. discloses receiving the product signal as an acoustic signal (see paragraph [0007]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add receiving the product signal as an acoustic signal to the system of Geiger et al.. One would have been motivated to do this in order to use cost effective sound wave technology.

As per Claim 16:

Geiger et al. does not explicitly disclose detecting the product data in the received product signal in the form of an ancillary code inaudibly encoded in an audio signal.

However, Schuster et al. discloses detecting the product data in the received product signal in the form of an ancillary code inaudibly encoded in an audio signal (see paragraph [0007]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add detecting the product data in the received product signal in the form of an ancillary code inaudibly encoded in an audio signal to the system of Geiger et al.. One would have been motivated to do this in order to use cost effective sound wave technology.

As per Claim 28:

Geiger et al. does not explicitly disclose the signal strength of the product signal is selected so that the product data is detectable by the portable monitor only when the wireless receiver is located within a predetermined exposure area in which the respective participant is able to perceive the product.

However, Schuster et al. discloses the signal strength of the product signal is selected so that the product data is detectable by the portable monitor only when the wireless receiver is located within a predetermined exposure area in which the respective participant is able to perceive the product (see paragraph [0006]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the signal strength of the product signal is selected so that the product data is detectable by the portable monitor only when the wireless receiver is located within a predetermined exposure area in which the respective participant is able to perceive the product to the system of Geiger et al.. One would have been motivated to do this in order to collect and correlate customer shopping data to timing.

As per Claim 42:

Geiger et al. does not explicitly disclose a media data exposure monitoring device operative to gather media data exposure data in the portable monitor representing exposure of the respective participant to media data, the media data exposure monitoring device being coupled with the data storage to supply the media data exposure data thereto, the data storage being operative to store the media data exposure data.

However, Schuster et al. discloses a media data exposure monitoring device operative to gather media data exposure data in the portable monitor representing exposure of the respective participant to media data, the media data exposure monitoring device being coupled with the data storage to supply the media data exposure data thereto, the data storage being operative to store the media data exposure data (see paragraph [0007]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add a media data exposure monitoring device

operative to gather media data exposure data in the portable monitor representing exposure of the respective participant to media data, the media data exposure monitoring device being coupled with the data storage to supply the media data exposure data thereto, the data storage being operative to store the media data exposure data to the system of Geiger et al.. One would have been motivated to do this in order to collect and analyze customer shopping data.

As per Claim 49:

Geiger et al. does not explicitly disclose storing first time data on a predetermined time base in association with the participant location data representing timing of the participant's presence at the plurality of locations.

However, Schuster et al. discloses storing first time data on a predetermined time base in association with the participant location data representing timing of the participant's presence at the plurality of locations (see paragraph [0006]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add storing first time data on a predetermined time base in association with the participant location data representing timing of the participant's presence at the plurality of locations to the system of Geiger et al.. One would have been motivated to do this in order to collect and analyze customer location data.

As per Claim 64:

Geiger et al. does not explicitly disclose the portable monitor further comprises a media data monitor operative to gather media data exposure data representing exposure of the participant to media data.

However, Schuster et al. discloses the portable monitor further comprises a media data monitor operative to gather media data exposure data representing exposure of the participant to media data (see paragraph [0007]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the portable monitor further comprises a media data monitor operative to gather media data exposure data representing exposure of the participant to media data to the system of Geiger et al.. One would have been motivated to do this in order to collect and analyze customer shopping data.

4. Claims 22, 50, and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geiger et al. (US 2001/0028301), in view of Crystal et al. (US 2001/0028301), in view of Forr et al. (US 20050200476), and further in view of Burgess (US 6,720,876).

As per Claim 22:

Geiger et al. does not explicitly disclose the time data represents a duration of proximity to the product.

However, Burgess discloses the time data represents a duration of proximity to the product (see col 9, lines 29-50).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the time data represents a duration of proximity to the product to the system of Geiger et al.. One would have been motivated to do this in order to determine customer interest in the product via duration.

As per Claim 50:

Geiger et al. does not explicitly disclose the time data represents durations of presence at the plurality of locations.

However, Burgess discloses the time data represents durations of presence at the plurality of locations (see col 9, lines 29-50).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the time data represents durations of presence at the plurality of locations to the system of Geiger et al.. One would have been motivated to do this in order to determine customer interest in the product via duration.

As per Claim 51:

Geiger et al. does not explicitly the first time data represents a time of presence at the plurality of locations.

However, Burgess discloses the first time data represents a time of presence at the plurality of locations (see col 9, lines 29-50).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the first time data represents a time of

presence at the plurality of locations to the system of Geiger et al.. One would have been motivated to do this in order to determine customer interest in the product via duration.

5. Claims 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Geiger et al. (US 2001/0028301), in view of Crystal et al. (US 2001/0028301), in view of Forr et al. (US 20050200476), and further in view of Burgess (US 6,720,876).

As per Claim 23:

Geiger et al. does not explicitly disclose the time data represents a time of proximity to the product.

However, Burgess discloses the time data represents a time of proximity to the product (see col 9, lines 29-50).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the time data represents a time of proximity to the product to the system of Geiger et al.. One would have been motivated to do this in order to gather customer data on shopping.

6. Claims 24, 52, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geiger et al. (US 2001/0028301), in view of Crystal et al. (US 2001/0028301), in view of Forr et al. (US 20050200476), and further in view of Hampton et al. (US 6,252,522).

As per Claim 24:

Geiger et al. does not explicitly disclose gathering media data exposure data in the portable monitor representing exposure of the respective participant to media data

and storing the media data exposure data in association with second time data on the predetermined time base representing timing of exposure to the media data.

However, Hampton et al. discloses gathering media data exposure data in the portable monitor representing exposure of the respective participant to media data and storing the media data exposure data in association with second time data on the predetermined time base representing timing of exposure to the media data (see col 6, lines 9-16).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add gathering media data exposure data in the portable monitor representing exposure of the respective participant to media data and storing the media data exposure data in association with second time data on the predetermined time base representing timing of exposure to the media data to the system of Geiger et al.. One would have been motivated to do this in order gather customer related data.

As per Claim 52:

Geiger et al. does not explicitly disclose gathering media data exposure data in the portable monitor representing exposure of the participant to media data in association with second time data on the predetermined time base representing timing of exposure to the media data.

However, Hampton et al. discloses gathering media data exposure data in the portable monitor representing exposure of the participant to media data in association

with second time data on the predetermined time base representing timing of exposure to the media data (see Abstract).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add gathering media data exposure data in the portable monitor representing exposure of the participant to media data in association with second time data on the predetermined time base representing timing of exposure to the media data to the system of Geiger et al.. One would have been motivated to do this in order gather customer related data.

As per Claim 54:

Geiger et al. does not explicitly disclose gathering data in the portable monitor representing exposure of the participant to media data.

However, Hampton et al. discloses gathering data in the portable monitor representing exposure of the participant to media data (see Abstract and col 6, lines 9-16).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add gathering data in the portable monitor representing exposure of the participant to media data to the system of Geiger et al.. One would have been motivated to do this in order gather customer related data.

7. Claims 26, 27, 46, and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geiger et al. (US 2001/0028301), in view of Crystal et al. (US 2001/0028301), in view of Forr et al. (US 20050200476), and further in view of Maggio (US 5,489,096).

As per Claim 26:

Geiger et al. does not explicitly disclose gathering data in the portable monitor representing exposure of the respective participant to media data.

However, Maggio discloses gathering data in the portable monitor representing exposure of the respective participant to media data (see paragraph [0013]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add gathering data in the portable monitor representing exposure of the respective participant to media data to the system of Geiger et al.. One would have been motivated to do this in order to gather customer response to advertising.

As per Claim 27:

Geiger et al. does not explicitly disclose gathering data in the portable monitor representing exposure of the respective participant to outdoor advertising.

However, Maggio discloses gathering data in the portable monitor representing exposure of the respective participant to outdoor advertising (see paragraph [0013]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add gathering data in the portable monitor representing exposure of the respective participant to outdoor advertising to the system

of Geiger et al.. One would have been motivated to do this in order to gather customer response to outdoor data such as billboards.

As per Claim 46:

Geiger et al. does not explicitly disclose an outdoor advertising exposure monitoring device operative to gather outdoor advertising data in the portable monitor representing exposure of the respective participant to outdoor advertising, the outdoor advertising exposure monitoring device being coupled with the data storage to supply the outdoor advertising data thereto, the data storage being operative to store the outdoor advertising data in association with second time data on the predetermined time base received from the clock and representing a timing of exposure to the outdoor advertising.

However, Maggio discloses an outdoor advertising exposure monitoring device operative to gather outdoor advertising data in the portable monitor representing exposure of the respective participant to outdoor advertising, the outdoor advertising exposure monitoring device being coupled with the data storage to supply the outdoor advertising data thereto, the data storage being operative to store the outdoor advertising data in association with second time data on the predetermined time base received from the clock and representing a timing of exposure to the outdoor advertising (see paragraph [0013]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add an outdoor advertising exposure monitoring device operative to gather outdoor advertising data in the portable monitor representing

exposure of the respective participant to outdoor advertising, the outdoor advertising exposure monitoring device being coupled with the data storage to supply the outdoor advertising data thereto, the data storage being operative to store the outdoor advertising data in association with second time data on the predetermined time base received from the clock and representing a timing of exposure to the outdoor advertising to the system of Geiger et al.. One would have been motivated to do this in order to gather customer response to outdoor data such as billboards.

As per Claim 66:

Geiger et al. does not explicitly disclose the portable monitor comprises an outdoor advertising exposure monitor operative to gather outdoor advertising data representing exposure of the participant to outdoor advertising.

However, Maggio discloses the portable monitor comprises an outdoor advertising exposure monitor operative to gather outdoor advertising data representing exposure of the participant to outdoor advertising (see paragraph [0013]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the portable monitor comprises an outdoor advertising exposure monitor operative to gather outdoor advertising data representing exposure of the participant to outdoor advertising to the system of Geiger et al.. One would have been motivated to do this in order to gather customer response to outdoor data such as billboards.

8. Claim 63 is rejected under 35 U.S.C. 103(a) as being unpatentable over Geiger et al. (US 2001/0028301), in view of Crystal et al. (US 2001/0028301), in view

of Forr et al. (US 20050200476), and further in view of Steinbrecher (US 2003/0061002).

As per Claim 63:

Geiger et al. does not explicitly disclose the portable monitor comprises a clock operative to produce first time data on a predetermined time base and coupled with the data storage to provide the first time data thereto, the data storage being operative to store the first time data in association with the participant location data representing timing of the participant's presence at the plurality of locations.

However, Steinbrecher discloses the portable monitor comprises a clock operative to produce first time data on a predetermined time base and coupled with the data storage to provide the first time data thereto, the data storage being operative to store the first time data in association with the participant location data representing timing of the participant's presence at the plurality of locations (see paragraph [0048]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the portable monitor comprises a clock operative to produce first time data on a predetermined time base and coupled with the data storage to provide the first time data thereto, the data storage being operative to store the first time data in association with the participant location data representing timing of the participant's presence at the plurality of locations to the system of Geiger et al.. One would have been motivated to do this in order to gather customer data pertaining to proximity to product.

Response to Arguments

9. The applicant's arguments are moot in light of the new grounds of rejection above.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney M. Henry whose telephone number is 571-270-5102. The examiner can normally be reached on Monday through Thursday from 7:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-270-6102.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RMH

/Arthur Duran/
Primary Examiner, Art Unit 3622